GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Social Welfare Department – Appeal petition filed by Smt. Mukkera Ratna Kumari, W/o Tappeta Divakar Jayanna, R/o Visakhapatnam District, against the proceedings No. Rc.C4/600/2003, dated 03.11.2003 of the District Collector, Prakasam - under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCILA WELFARE (CV.1) DEPARTMENT

G.O.Ms.No.38 Dated:10.04.2018

Read the following:

1. Proceedings of the Collector, Prakasam, No. Rc.C4/600/2003, dated 03.11.2003.
2. Appeal Petition filed by Smt. M. Ratna Kumari, W/o Tappeta Divakar Jayanna, R/o Prakasam District, before the Government on 16.03.2004.
3. Govt. Memo No.4401/CV.1/2004-1, dated 19.01.2005.
4. From the District Collector, Prakasam, Lr. Rc.C4/174/2005, dated 17.02.2005.
5. Govt. Memo No.4401/CV.1/2004-2, dated 08.04.2005.
6. From the District Collector, Prakasam, Lr. RC.C4/174/2005, dated 06.11.2014.
7. Govt. Memo No.4401/CV.1/2004, dated 12.03.2015, 08.04.2015, 13.11.2015, 29.04.2016 & 30.11.2016.
8. Govt. Memo No.4401/CV.1/2004, dated 17.08.2017.

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ORDER:

In the reference 1st read above, the District Collector, Prakasam has issued orders canceling the SC–Hindu Madiga Caste Certificate obtained from the then Mandal Revenue Officer, Podili in the year 2003 by Smt. M. Ratna Kumari, W/o Tappeta Divakar Jayanna.

2. In the reference 2nd read above, Smt. M. Ratna Kumari, W/o Tappeta Divakar Jayanna has filed an Appeal Petition before the Government, against the proceedings of the District Collector, Prakasam. After examining the said Appeal Petition, the District Collector, Prakasam was requested to intimate the date of serving the orders to the appellant in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Prakasam have reported that the orders of the District Collector Rc.C4/600/2003, dated 03.11.2003 were sent to Smt. M. Ratna Kumari, W/o Tappeta Divakar Jayanna on 10.11.2003 by post.

4. After examining the said Appeal Petition, the Government have admitted the appeal petition and granted stay on the operation of the proceedings of the District Collector, Prakasam and called for parawise remarks and connected records from the District Collector, Prakasam in the reference 5th read above.

5. In the reference 6th read above, the District Collector, Prakasam has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Smt. M. Ratna Kumari, W/o Tappeta Divakar Jayanna.

6. The said appeal petition has been posted for hearing on 04.04.2015, 18.04.2015, 28.11.2015, 14.05.2016, 24.12.2016 and finally on 16.09.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 7th & 8th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant/ Counsel for the appellant have not attended for the hearing on 16.09.2017.

(P.T.O)

7. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Prakasam and proceedings of the District Collector, Prakasam dated 03.11.2003, the Appellate Authority has observed that:

I. The appellant in her ground has stated that she belongs to SC-Madiga community professing Hinduism and her husband also belongs to Hindu Madiga community and the respondents did not give any opportunity of hearing to the appellant before their alleged enquiry.

II. The District Level Scrutiny Committee has observed that after due enquiry the then Tahsildar, Podili has recommended for cancellation SC caste certificate issued to Mukkera Ratnakumari W/o T. Diwakar Jayanna, resident of Viswanadhapuram of Podili Mandal as she did not converted for Christianity to Hinduism before obtaining disputed Madiga -SC caste certificate on 10.03.2003, the same report was agreed by the Revenue Divisional Officer, Kandukur . Basing on the reports submitted by the Mandal Revenue Officer, Podili, Revenue Divisional Officer, Kandukur and basing on the written statement given by the appellant before the M.R.O., Podili on 10.06.2003, it was clearly revealed that the father of the individual belongs to Christian BC – C, her husband belongs to Madiga – SC. She did not converted to Hinduism before obtaining Madiga – SC caste certificate from the M.R.O. Podili. She simply adopted her husband's caste and obtained Madiga – SC caste certificate fraudulently. Basing on the recommendations of the of the D.L.S.C., the Collector, Prakasam cancelled the Madiga – SC caste certificate which was fraudulently obtained by the appellant.

III. Further it is submitted that in Circular Memo. No. 10956/CV1/97-2, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions, claiming Community Certificates through "Marriage" as follows :

" The guiding principle is that no person who was not a Scheduled Caste or Scheduled Tribe by birth, will be deemed to be member of a Scheduled Caste or Scheduled Tribe merely because he or she had married a person belonging to a Scheduled Caste or a Scheduled Tribe.

Similarly, a person who is a member of a Scheduled Caste or Scheduled Tribe would continue to be a member of that Scheduled Caste or Scheduled Tribe as the case may be even after his or her marriage with a person who does not belong to a Scheduled Caste or Scheduled Tribe."

IV. Further it is observed that in Circular Memo. No. 10956/CV1/97-2, S.W (CV) Department, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions, the conversion and re-conversion rules are as follows:

1) Where a Scheduled Caste person gets converted to a religion other than Hinduism or Sikhism and then reconverts himself back to Hinduism or Sikhism, he will be deemed to have reverted to his original Scheduled Caste, if he is accepted by the members of that particular caste as one among them.

2) In the case of a descendent of a Scheduled Caste convert, the mere fact of conversion to Hinduism or Sikhism will not be sufficient to entitle him to be regarded as a member of the Scheduled Caste to which his forefathers belonged. It will have to be established that such a convert has been accepted by members of the caste claimed as one among themselves and has thus become a member of that caste.

(Contd., on page.3)

As verified from the records/ statement given by the appellant it is observed that the appellant's parents are converted Christians (BC-C) and she obtained SC- caste certificate based on her husband. As per the above said rules the caste of the person can't change based on the marriage.

V. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

VI. The Appellate Authority is observed that during the course of hearing of the case that the appellant submitted her arguments as per her grounds in appeal petition and stated that the lower authority failed to observe that her husband belongs to Schedule Caste Madiga community and on that score alone it can be presumed that she also belongs to Schedule Caste. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence that her father and mother belongs to SC Community. That community of the one cannot be decided on the strength of the marriage with other and an independent enquiry before the community of one is decided. That as per the act that the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary independent evidence and documents of her to claim the same.

VII. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference.

VIII. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Prakasam District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

8. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Smt. M. Ratna Kumari, W/o Tappeta Divakar Jayanna, does not deserve any interference. Hence, Proceedings of the District Collector, Prakasam issued vide Rc.C4/600/2003, dated 03.11.2003, is hereby upheld and the Appeal Petition filed Smt. M. Ratna Kumari, W/o Tappeta Divakar Jayanna, is hereby dismissed and the Certificate issued by the then Mandal Revenue Officer, Podili deemed to be cancelled and the interim stay granted earlier stands vacated.

9. The District Collector, Prakasam is directed to take necessary consequential action in the matter.

10. The records (containing D.Dis.C4/600/2003, dated 13.11.2004, pages: CF : 1-57 & NF: 1-25) received from the District Collector, Prakasam through in the reference 6th read above, are returned herewith in original to the District Collector, Prakasam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To

The District Collector, Prakasam
(with original records) (BY RPAD)

(Contd., on page.4)

Smt. M.Ratna Kumari W/o Tappeta Divakar Tayanna,
R/o Viswanathapuram, Podili (V)&(M), Prakasam District.

M/s Nimmagada Satyanarayana, Advocate,
H.No.17-84, 4th Road,
Srinivagar Colony, Dilsukhnagar, Hyderabad.

Copy to:

The PS to M(SWE&TWE).
The P.S. to Prl. Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER